S.B.Civil Revision Petition No.285/2001
Deepa Ram vs. LRs. of Mohan Lal & ors.

Date of Order: 06.10.2006

HON'BLE MR. PRAKASH TATIA, J.

Mr. B.K. Vyas for the petitioner.
Mr. Nitin Trivedi for the respondent.

Heard learned counsel for the parties.

The petitioner has challenged the order of the trial court dated 3.2.2001 whereby the trial court held that the suit against defendant no.1 has been dismissed as abated because of the reason that the petitioner-plaintiff did not submit application for bringing on record the legal representatives of defendant no.1 Mohan Lal. It will be worthwhile to mention here that the total suit has not been dismissed as abated, yet the revision petition has been preferred.

It is not in dispute that the suit was filed against defendant no.1, his three sons and two other persons. The legal representatives of defendant no.1 Mohan Lal were already party in the suit and, therefore, the trial court rightly held that the suit so far as Mohan Lal is concerned, it has abated. Due to death of defendant no.1, the suit could have been abated only against Mohan Lal and it has no effect on the entire suit of the plaintiff because of the reason that the estate of Mohan Lal is sufficiently represented by his sons. In view of the above, the present revision has been preferred despite the fact that the order is not against

the petitioner-plaintiff.

In view of the above, the revision petition is dismissed holding that the abatement of suit against deendant no.1 Mohan Lal has not adverse impact on the plaintiff's suit.

(PRAKASH TATIA),J.

mlt.